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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/700,585 | 11/05/2003 | Rudolf Baumann | 20293.7 | 7584 |
| 7590 | 03/29/2006 | | EXAMINER | |
| Lichti, Lempert, & Lasch Bergwaldstr. 1 Karlsruhe, D-76227 GERMANY | | | MAUST, TIMOTHY LEWIS | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3751 | |

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/700,585 | BAUMANN, RUDOLF |
| | Examiner | Art Unit |
| | Timothy L. Maust | 3751 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,4-10,12-23,25 and 26 is/are rejected.
- 7) Claim(s) 2,3,11 and 24 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 November 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/26/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elements defined in claim 26 (i.e., installation, scales, etc...) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "said shaft closing piece" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Objections

Claims 13 and 23 are objected to because of the following informalities:

In regard to claim 13, line 3, "an" should be -- a --; and

In regard to claim 23, line 2, "said" (1st occurrence) should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 8 and 13-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Monicke.

In regard to claim 1, 13 and 17, the Monicke reference discloses a “device” (Figure 1) for flowable material, comprising a “supply container” 1 having an “outlet” 4 and a “screw” 3, a “screw coupling means” (Figure 5), a “removal means” 7 and “moving means” (defined by the 2 vehicles in Figure 1), as claimed.

In regard to claims 5, 6, 15 and 16, see the mating faces 5.1 and 5.3 in Figure 1.

In regard to claims 8 and 21, the “motor” is defined by the motor on the tractor to drive the power take-off 9.

In regard to claims 14 and 19, a “seal” and “closing piece” would be inherent to the system.

In regard to claim 18, the “drive shaft” 8 can be axially displaced by horizontal movement of the tractor away from the supply.

In regard to claim 20, see Figure 5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monicke.

The Monicke reference discloses the invention substantially as claimed (discussed supra), but doesn't disclose a threaded connection. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a threaded connection for the connection in the Monicke device, since the Examiner takes Official Notice that a threaded connection and the connection in the Monicke device would be art recognized equivalents in the connection art and that the selection of any of these known equivalents would work equally well in the Monicke device.

Claims 9, 10, 12, 22, 23, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monicke in view of Toschi.

The Monicke reference discloses the invention substantially as claimed (discussed supra), but doesn't disclose a scale or electromotor. However, the Toschi reference discloses another flowable material dispensing device including a "supply container" 1 having an "outlet" 13, a "screw" 11, a "motor" 22 to drive the screw and a "scale" 13 to record the amount of material dispensed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Monicke device to have a scale in order to provide a material measuring device. Further, it would have been obvious to one of ordinary skill in the art to substitute the drive on the Monicke device with an electromotor as, for example, taught by Toschi wherein so doing would amount to mere substitution of one functional

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equivalent motor drive for another within the same art and the selection of any of these motor drives would work equally well in the Toschi device.

In regard to claims 10 and 23, it would have been obvious to one having ordinary skill in the art at the time the invention was made to control the closure device manually or by a motor, since it has been held that broadly providing a mechanical or automatic means to replace manual activity (or vice versa) which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

Allowable Subject Matter

Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 2, 3, 11 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Link et al. reference pertains to a dispensing device, similar to Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Tue. - Thur. 6:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy L Maust
Primary Examiner
Art Unit 3751

Tlm
3/27/06